

14.<sup>12</sup> (Twice Amended) The system [barrier] of Claim 10,<sup>9</sup> wherein the substantially flexible cover defines a substantially rectangular sheet having a flexible seam at each of its edges coupled to a plurality of [said] flap portions.

15.<sup>13</sup> (Twice Amended) The system [barrier] of Claim 10,<sup>9</sup> wherein the cover defines a section of a portion of a right circular cylinder enclosure.

16.<sup>14</sup> (Twice Amended) The system [barrier] of Claim 10,<sup>9</sup> wherein the cover defines a tetrahedral enclosure.

Claims 17 and 24-26 have been canceled.

#### REMARKS

Claims 1-4, 6-12, and 14-16 are pending. Claims 1, 10, 11, 12 and 14-16 have been amended. Claims 5, 13, 17, and 24-26 have been canceled. Applicants request reexamination and reconsideration of the pending claims.

#### Rejection under 35 U.S.C. 102(b)

Claims 1-7, 9, 17, 24, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Hogan. Applicants respectfully overcome the rejection as follows.

Claim 1 sets forth a barrier including at least one opening configured to have a self-acting closure permitting manual access into the enclosed space and "a flexible cover sheet positioned proximate to said at least one opening to overlap said at least one opening and form a seal when said self-acting closure is in a closed configuration." The flexible cover

sheet provides that no air is either leaking in to, or out from the opening and disturbing the enclosed environment. (Applicants' specification, page 7, lines 35-36). Applicants could find no disclosure in Hogan of a flexible cover sheet to form a seal over the opening.

At the suggestion of the Examiner, Applicants have reviewed Dorsak (U.S. Patent No. 2,720,387), which Applicants previously submitted in an Information Disclosure Statement, PTO-1449. Applicants could find no disclosure of a structure in Dorsak that provides a seal over the openings as in Applicants' Claim 1. Instead, Dorsak discloses an infant incubator having a front panel 4, which "has a pair of hand holes 5 formed therein...covered by a hinged lid 7." (Dorsak, col. 2, lines 31-34 and FIG. 1). Applicants submit that the hinged lid 7 in Dorsak does not teach or suggest the flexible cover sheet as set forth in Claim 1, since the hinged lid 7 does not form a seal over the hand holes 5. Instead, as clearly shown in FIG. 1 of Dorsak, hinged lid 7 has an open portion, along a top half of the hinged lid 7, which would allow air (or liquid) to reach the hand holes 5. The flexible cover sheet set forth in Claim 1 provides a seal over the opening. Accordingly, since neither Hogan or Dorsak teach or suggest Applicants' Claim 1, either alone or in combination, Claim 1 is allowable over the cited references.

Rejection under 35 U.S.C. 103(a):

Claims 10-14 and 26 are rejected under 25 U.S.C. 103(a) as being unpatentable over Barsky in view of Goertzel. Applicants respectfully overcome the rejection as follows.

Claim 10 sets forth a system for providing a neutral thermal environment, including an infant radiant warmer. The system also includes a substantially flexible cover defining an enclosed space when disposed over the bedding portion and side guards of the radiant warmer, and at least one opening located through the substantially flexible cover and

permitting manual access into the enclosed space. Applicants could find no teaching or suggestion in Barsky of using an opening through the cover to arrive at Applicant's claimed invention.

The Examiner has cited Goertzel as an alleged cure to the deficiency in Barsky. However, Applicants could find no teaching or suggestion in either reference of the invention as set forth in Claim 10. Moreover, Applicants could find no motivation to combine the references to arrive at Applicants' invention. Applicants reasoning is set forth below.

First, Barsky teaches an alternate to the openings of Goertzel for providing access. Barsky teaches a PVC supply roll, where "lengths of the PVC supply roll can be rolled off supply roll 54 onto cover frame 50 and 52." (Barsky, Col. 4, lines 51-53). "With this construction, cover frame 52 can be folded back over cover frame 50 to the partially open position...and cover frame 50 can be folded back...to the completely open position" to provide access. (Barsky, Col. 4, lines 34-39). In teaching the use of frames 50 and 52 to create an access, Barsky teaches away from openings through supply roll 54.

Second, Applicants submit that there is no motivation to combine Barsky and Goertzel, since to combine the openings taught in Goertzel with the PVC supply roll taught in Barsky, would be counterintuitive. For example, the PVC supply roll sheets could not support the openings taught in Goertzel if they were placed thereon. Moreover, applying the openings of Goertzel to the PVC supply roll could not have been anticipated by Barsky, since the concept of rolling up the PVC supply roll to hang on the end of the radiant warmer would no longer be practical.

Third, Barsky teaches that portions of the PVC supply roll are to be torn away from the supply roll and discarded after use. It does not seem likely, that Barsky would have anticipated throwing away a portion of the PVC supply roll having openings like those taught

in Goertzel after the effort and expense it would require to mount the openings to the PVC supply roll.

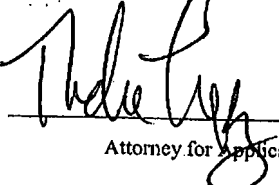
Accordingly, since there is no teaching or suggestion of Applicants' invention in either reference, nor would the combination of Barsky and Goertzel arrive at Applicants' invention, Claim 10 is allowable over the cited references.

Claims 2-4 and 6-9 depend from Claim 1 and are allowable for at least the same reasons as Claim 1. Claims 11, 12, and 14-16 depend from Claim 10 and are allowable for at least the same reasons as Claim 10.

### CONCLUSION

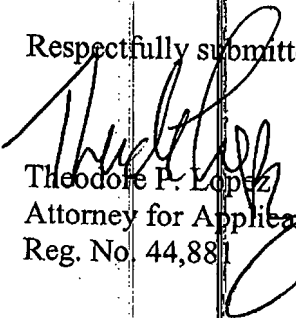
For the above reasons, pending Claims 1-4, 6-12, and 14-16 are now in condition for allowance and allowance of the application is hereby solicited. If the Examiner has any questions or concerns, the Examiner is requested to telephone Applicants' Attorney at 949-718-5200.

I hereby certify that this correspondence is being transmitted via facsimile to: ASSISTANT COMMISSIONER FOR PATENTS, Washington, D.C. 20231, on Nov. 30, 2000, at facsimile 703-308-0758.

  
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